

DRAFT

Governor's Blue Ribbon Water Task Force

Meeting Notes August 24-25, 2005 Albuquerque, NM

Attendees: Myron Armijo, Larry Blair, Conci Bokum, Brian Burnett, Frank Chavez, John D'Antonio, Peter Davies, Lisa Henne, Steve Hernandez, Eileen Grevey Hillson, Dave Hughes, Sarah Kotchian, Elmer Lincoln, Estevan Lopez, G.X. McSherry, Paul Paryski, Elmer Salazar, Jack Westman.

The next meeting of the BRWTF will be October 17-18, 2005 in Deming.

Member Updates

- Conci Bokum was elected to the Buckman Diversion Board.
- The New Mexico Forum for the 2007 Farm Bill was held on August 26 at New Mexico State University in Las Cruces. (*Comments can still be submitted online at www.usda.gov/farmbill*).
- John D'Antonio gave a presentation at the CLE International New Mexico Water Law conference (August 15-16). His presentation covered progress to date on Active Water Resource Management.
- Myron Armijo is putting together a tribal water summit. The state water plan will be presented, and opportunities and barriers to OSE/ISC working with the tribes will be discussed. There will also be follow-up meetings.
- The Water Trust Board (WTB) has received letters of interest for 25-30 projects, and applicants can now submit fill-scale proposals. The WTB is developing a single, uniform application process, and the Water Infrastructure Technical Team is developing criteria (including environmental considerations) for evaluating project proposals. The WTB is trying to determine how to increase financial participation and resource accountability on the part of the applicants. The emphasis will be to support larger water projects that offer economies of scale, and to offer loans instead of grants. The WTB is also considering developing a multi-agency technical assistance team, but it would need a funding source.

Annual Report to the Governor

Sarah Kotchian is developing the annual report to the Governor. Task Force members identified the following items as funding priorities for the coming year:

1. Support for aquifer mapping; monitoring wells to measure drawdown rates and water quality; desalination projects (including partnerships with GE, Sandia, and LANL).
2. Funding for USGS stream gaging stations. States had been paying for half of the cost for maintaining the gaging stations, but are now paying more than half due to escalating costs and flat budgets for the agency. Without additional state support, the USGS will not be able to maintain all of the existing stations. Data from these gaging stations are very valuable to the state.
3. Funding for the water rights settlement fund.
4. Funding for OSE programs related to water and water conservation.
5. Pecos settlement funding.

The Task Force will also identify priorities from last year that still apply. For example, OSE still has 35 remaining term-to-perm conversions, many of which are in the WATERS program.

OSE/ISC Updates and Discussion

- The OSE was anticipating a favorable opinion from the Attorney General on HB 1110, which allocated 10% of water project funds (including severance tax bond proceeds) to the OSE for adjudication. *UPDATE: the Attorney General's opinion supported the allocation of 10% of water project funds to the OSE for adjudication – see http://www.ago.state.nm.us/divs/civil/opinions/o2005/08-24-05_water_project_fund.pdf*
- The San Juan Stream Adjudication is continuing to progress.
- OSE/ISC made a presentation on AWRM to the Lower Rio Grande Water Users Organization. The OSE is working with stakeholder groups to improve the district-specific regulations. Farm delivery numbers and metering order specifics are still being developed. The OSE is inflexible on the metering date and will move on priority administration, but would prefer that users agree on alternative means of administration. A water banking tool can help them develop alternatives to priority administration.
- The OSE will hold public meetings in late August and early September in Carlsbad, Fort Sumner, and Roswell to discuss basin-specific rules and regulations for the Lower Pecos. A special Lincoln County Commission meeting to discuss the draft will also be held in Hondo.
- The OSE has removed some of the stricter rules on priority administration on the Pecos River because people thought it might jeopardize funding.
- The ISC is purchasing farm land to get valid water rights. Sellers have first right of refusal if ISC decides to sell land that it bought. The minimum land purchase needed to meet compact deliveries is 12,000 acres at a cost of approximately \$18M. Another 18,000 acres (\$25-30M) would be required to build up credit and allow some farms to go

back into operation. The outlay is anticipated to be \$18M the 1st year, followed by \$10M annually for three years. Maintenance by a contractor will cost approximately \$1M/year. The OSE is taking the funding request out of the OSE budget and will focus on acquiring funding through the capital outlay program as a statewide need and priority.

- The Cabresto dam is a high hazard dam with a spillway that is inadequate for the probable maximum flood. Fixing seepage will cost \$0.5M, and the estimated cost of repairing the dam is \$4-5M. The OSE is putting in the cost of repairing the dam as a capital request.
- The City of Santa Fe ordinance requiring transfer of water rights for developments that fit certain criteria will likely create additional work for the OSE. It was also noted that because Santa Fe County does not have the same restrictions, one potential effect of the City's ordinance is to promote sprawl.
- A member of the Task Force commented that there have been cases where water rights have been sold and domestic wells subsequently drilled. There is a need for banking of water rights to provide for domestic uses.

Discussion of the Navajo Settlement Agreement

Funding

- The estimated cost for the video documentary and related efforts is \$45-50K.
- The Navajo Nation faxed a resolution that was passed by the Navajo Nation Water Rights Commission expressing support for the Blue Ribbon Task Force and committing \$15K toward the effort.
- The Healey Foundation is now focusing on water issues and has donated \$15K.
- The \$6B in the Reclamation Fund is being used for other projects and is not likely to be available for settlements.
- Bonding for settlement would require a recurring source of revenue.
- Legislative support is needed to put money in the settlement fund.
- Eileen has made initial contact with Wells Fargo for funding for the outreach effort and/or the economic study. Bank of America and Bank of Albuquerque were also suggested as a potential funding sources.
- Requests for funding need to be accompanied by a package of written materials that can be given to potential sponsors. OSE/ISC has been working with Navajo Nation to create lists of benefits to various parties, and could develop a packet.

Tour

- Governor Richardson and President Shirley will issue an invitation letter to the congressional delegation to tour the settlement area. Tribal governors, Governors Janet Napolitano (AZ) and Jon Huntsman, Jr. (UT), Secretary of the Interior Norton, and President Bush should also be invited. The tour needs to be carefully structured to make the most effective use of the time.

- Bringing congress members out from the east coast to see the situation first hand would help to generate national support.
- An OSE contract attorney has been in touch with delegation staff. They want to schedule a hearing for early October with the intent of getting the topic on the table in a 2-5 minute presentation so that it can be heard more next year.

Economic Analysis

- The pipeline cost is estimated at \$600M (but could be \$700-800M). The Federal portion for the entire settlement is considerably higher (in the range of \$880M-\$1B).
- Economic impact of not implementing settlements needs to be looked at. Motivation to settle will be undermined if there is no money to put settlements into effect. An independent economic analysis that compares the costs and benefits with and without settlement is needed.
- The UNM Anderson School of Management might be able to help with the analysis.
- The UNM Bureau of Business and Economic Research (Lee Reynis, Director) is already set up for this type of analysis and might also be able to help.
- Lee Brown is an economist interested in water issues who might be able to contribute.
- Since there will be more hearings next year, it might be better to take the time to develop a thorough study and present it next year, rather than presenting a less rigorous study this year.
- The economic study for the Pecos litigation should be looked at to determine whether it could serve as a model for the Navajo settlement.
- New Mexico state scale, and multi-state scales will both be important.

Video

- The video will be approximately 10 minutes, and will be used to generate support and funding. Desert Jim's Production has been hired to shoot the video, polish the script, and do the dubs.
- Karin Stangl has developed an outline of who she would like to interview and what the topic would be. Bingaman has already been interviewed.
- The script is in the drafting stage.
- The interviews will feature people who do not have running water.
- "B roll" could be used for video news releases.
- John D'Antonio has brought up the effort at Cabinet meetings, and was offered help by the Cabinet Secretary who deals with the film industry.
- A comment was made that for the BRAC hearings, all of the presentations came back to the human elements of the story. This might serve as a good model for the Navajo Settlement. Economic, human interest, and technical aspects will all need to be well-grounded.

- It is important to keep a clear focus – too many messages will get lost.

General Strategy

- OSE wants to eventually expand the scope and build a bigger package – longer video, economic impact study.
- Need promotion and a well-grounded defense.
- Conci made initial contact with the New York Times.
- The broader the tribal commitment, the better, including legislative branch support, and it will be important to include people on the Navajo Nation who are not direct beneficiaries of the settlement. Agency councils represent grazing districts between other districts, and should be included.
- Tribes could help with designing strategy for getting broad support.
- State legislators from affected area, the council of governments, Bureau of Reclamation and other agencies should be engaged.
- Hirst Córdova has been hired to help organize the campaign.
- Core group: Navajo Nation, Attorney General, City of Gallup, OSE/ISC
- There is still work to do to get support in the Albuquerque area. The economic issues related to settlement (e.g., the settlement ends Navajo claim on San Juan Chama water) need to be pointed out.
- Support from tribal nations is there in principle, but there is always competition for limited appropriations. Similarly, the Arizona delegation is supportive of Indian issues, but competition for appropriations might also impact their support.
- The question of whether the settlements made sense will have to be addressed.
- The Navajo settlement is unique and worth settling. Differentiators from other settlements:
 - The settlement involves 3 states.
 - The Navajo Nation is the largest tribe in the US.
 - The settlement resolves uncertainty.
 - People live far from the water source.
 - Settling offers money and time savings.
 - The settlement has significant emotional and human appeal– the Navajo Nation was confined to an area that had no access to surface water flow, and there are still many people without running water.
 - The settlement would fall within a short time frame.
 - The cost per acre is relatively low – Ammodt is \$70K/af, Navajo is \$2K/af.
 - There is a large number of water rights involved (2500 af of water would be settled).

- The impact on the Colorado River is very significant – this settlement is within the New Mexico apportionment of Colorado water. If the Navajo Nation called for its full appropriation of water, it would impact lower basin states.
 - Not settling could have impacts on the compact – Indian nations were not included when the compacts were signed.
- If we can get the Navajo settlement implemented and show the benefits, it might help promote settlement of the smaller ones. Because there are so many settlements, there will be prioritization.
- Factual presentation will be needed for elected officials, and emotional presentation will be needed to get public support.
- The settlement needs a deep philosophical commitment from the delegation.
- The message needs to last 4-5 years. Aamodt will likely settle.
- The settlement could become a baseline or core issue for the Blue Ribbon Water Task Force. It is consistent with the state water plan, and therefore seems within scope of the Task Force. Resources would be needed to support Task Force member travel, etc.